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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/803,191	03/09/2001	Ian Alastair Kirk	67097-001	5141

27128 7590 09/04/2003

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ST. LOUIS, MO 63101

EXAMINER

DANG, HOANG C

ART UNIT	PAPER NUMBER
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3672

DATE MAILED: 09/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

81

<b>Office Action Summary</b>	<b>Application No.</b> 09/803,191	<b>Applicant(s)</b> KIRK ET AL.	
	<b>Examiner</b> Hoang Dang	<b>Art Unit</b> 3672	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 June 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 and 5-18 is/are pending in the application.
- 4a) Of the above claim(s) 9-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 9-18 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                          | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>18</u> . | 6) <input type="checkbox"/> Other: _____.                                   |

### DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### *Claim Rejections - 35 USC § 103*

2. Claims 1-3 and 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mikolajczyk (US 5,095,981) or Stolz (US 1,807,050) or Bettis (US 2,166,116) in view of Myers (US 6,039,127) or Wilde et al (US 6,258,180)

Mikolajczyk '981 or Stolz '050 or Bettis '116 discloses the invention as claimed except that the centralizer is not disclosed as comprising austempered ductile iron. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the centralizer of Mikolajczyk or Stolz or Bettis of austempered ductile iron since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. Either Myers '127 or Wilde et al show that it is known to construct tools of austempered ductile iron (ADI) because of its relatively high wear resistance, toughness or/and strength (see column 1, line 51 through column 2, line 30 in Myers and column 2, lines 18-33 in Wilde et al). As for claim 8, it is conventional to provide a centralizer with straight blades (shown in Mikolajczyk) or helical blades (shown in Stolz or Bettis).

#### *Response to Arguments*

3. Applicant's arguments with respect to claims 1-3 and 5-8 have been considered but are moot in view of the new ground(s) of rejection.

Art Unit: 3672

*Conclusion*

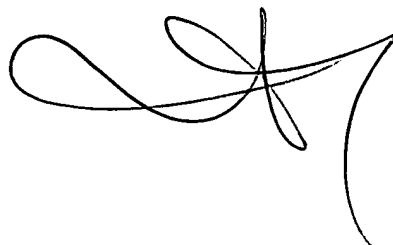
4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoang Dang whose telephone number is 703-308-2149. The examiner can normally be reached on 9:15-5:45 Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Bagnell can be reached on 703-308-2151. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.

**Hoang Dang  
Primary Examiner  
Art Unit 3672**

09803191.2non  
August 23, 2003

A handwritten signature in black ink, consisting of a series of loops and a long vertical stroke on the right side.